

REMARKS

The Advisory Action dated July 13, 2004 has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response to the Final Office Action of February 12, 2004.

Claim 1 has been amended to more particularly point out and distinctly claim the subject matter of the invention. No new matter has been added. Support for the amendment may be found in the Specification on pages 54-56. Claims 1-4 and 6-9 are pending and are respectfully submitted for consideration.

In the Final Office Action of February 12, 2004, claims 8-9 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In the Response to the Final Office Action, Applicants amended claim 8 in order to place it in independent form. Applicants have requested entry of that previous amendment submitted in the Response under 37 CFR §1.116. Therefore, Applicants respectfully submit that claim 8, along with claim 9 that depends therefrom, are in condition for allowance.

Also in the Final Office Action of February 12, 2004, claims 1-6 were rejected under 35 USC § 102(e) as being anticipated by *Hughes* (U.S. Patent No. 6,526,060). Applicants note, however, that only claims 1-3 and 6 are directly addressed in the body of the rejection. While claim 4 was rejected separately under 35 USC § 103(a) as being unpatentable over *Hughes* in view of *Hoffman* (U.S. Patent No. 6,094,435). Claim 7 was

rejected under 35 USC § 103(a) as being unpatentable over *Hughes* in view of *Kloth* (U.S. Patent No. 6,643,260). The above rejections are respectfully traversed for the reasons which follow.

Claim 1, from which claims 2-4, 6 and 7 depend, recites a network switch for switching packets from a source to a destination. The network switch includes a source port for receiving an incoming packet from a source, a destination port which contains a path to a destination for the packet and a programmable counter unit for counting a number of packets of selected packet types which are received by the switch. The programmable counter unit includes a rules table therein, the rules table storing rules which control packet flow based on values set in fields of a selected packet type, after a number of counted packets of a selected packet type exceeds a predetermined threshold. The rules table comprises a counter field, a filter value field, and a filter select field.

The cited prior art references of *Hughes*, *Hoffman* and *Kloth*, whether taken alone or in combination, fail to disclose or suggest the elements of the claims, and therefore fail to provide the features discussed above.

Hughes discloses a service controller for a cell switched network services. The Office Action points to BMX 300, in Fig. 2 and 3, where ATM cells are received and a fair rate for servicing the cells from a plurality of queues is determined. Cells are moved to their proper class of service queue according to that fair rate. The Office Action also alleges that the system also includes an algorithm to count the number of cells and

determine whether they exceed threshold values. However, *Hughes* fails to teach or suggest all of the elements of claim 1.

Claim 1 recites, in part, “wherein the programmable counter unit includes a rules table therein, said rules table storing rules which control packet flow based on values set in fields of a selected packet type.” Additionally, claim 1 recites that the “rules table comprises a counter field, a filter value field, and a filter select field.” *Hughes* simply fails to teach or suggest a rules table as recited in the claim.

Hughes does not disclose a rules table or the use of any such table by a counter to control packet flow. Furthermore, *Hughes* fails to disclose that the rules table comprises a counter field, filter value field, and a filter select field. While it could be argued that *Hughes et al.* evaluates the ATM cells received to determine, for example, a class of service, there remains nothing in the reference that teaches or suggests the inclusion or use of a rules table. It could also be argued that *Hughes* discloses that the system distributes and monitors cells to the class of service queues, but there is no teaching of the use of a rules table in performing such a function. *Hughes* may utilize any number of mechanisms to control incoming packet data cells, which are not limited to a rules table. In addition, since *Hughes* fails to disclose the inclusion or use of a rules table, it also fails to disclose that the rules table includes a counter field, filter value field, and a filter select field. Given this lack of disclosure, Applicants respectfully assert that the rejection of claim 1 as being anticipated by *Hughes* is improper and should be withdrawn.

Additionally, the Office Action rejects claim 2 as being anticipated by *Hughes* and argues that *Hughes* discloses, inherently, “a filter unit in order to select and arrange into queues corresponding type of cell.” However, claim 2 recites, in part, “a filter unit which parses selected fields of an incoming packet and *compares the selected field to a table* to determine whether the incoming packet is of a selected packet type.” Similarly to the discussion above, *Hughes* fails to teach the comparison of fields with a table, as recited in claim 2. While the Office Action argues that a filter unit is inherently disclosed by *Hughes*, all elements of a claim must be found for the claim to be anticipated. Thus, even if it were acknowledged that *Hughes* inherently discloses a filter unit, that inherent disclosure cannot teach the functioning of that unit, including the comparisons that unit may make with a table. For at least those reasons, Applicants respectfully request that the rejection of claim 2 be withdrawn.

With respect to the rejection of claims 4 and 7, the Office Action cites *Hoffman* and *Kloth* to cure the deficiencies of *Hughes*. *Hoffman* is cited as teaching elements of claim 4 and *Kloth* is cited as teaching a new code point. Even if these teachings were accepted, which Applicants do not admit, they would not cure the deficiencies of *Hughes et al.* noted above. Additionally, claims 4 and 7 depend from claim 1 and should be allowed for at least the same reasons discussed above. Reconsideration and withdrawal of the above rejections are respectfully requested.

For all the reasons discussed above, Applicants respectfully submit that *Hughes*, *Hoffman* and *Kloth*, whether taken alone or in combination, fail to disclose critical and

important elements of the claimed invention. These distinctions are more than sufficient to render the claimed invention unanticipated and unobvious. It is therefore respectfully requested that all of claims 1-4 and 6-9 be allowed, and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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